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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/700,141	11/03/2003	Vyshislav Ivanov	3769-019 CON	3725
23440 7590 03/31/2009 GOTTLIEB RACKMAN & REISMAN PC 270 MADISON AVENUE 8TH FLOOR NEW YORK, NY 10016-0601				
EXAMINER MCGRAW, TREVOR EDWIN				
ART UNIT		PAPER NUMBER		
3752				
MAIL DATE		DELIVERY MODE		
03/31/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/700,141

Applicant(s)

IVANOV ET AL.

Examiner

Trevor E. McGraw

Art Unit

3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 September 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 61 and 63-67 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 61 and 63-67 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Examiner's Comment

Examiner acknowledges the cancellation of Claim 62.

Allowable Subject Matter

Applicant is advised that the Notice of Allowance mailed 12/16/2008 is vacated. If the issue fee has already been paid, applicant may request a refund or request that the fee be credited to a deposit account. However, applicant may wait until the application is either found allowable or held abandoned. If allowed, upon receipt of a new Notice of Allowance, applicant may request that the previously submitted issue fee be applied. If abandoned, applicant may request refund or credit to a specified Deposit Account.

The indicated allowability of claims 61 and 63-67 is withdrawn in view of the newly discovered reference(s) to Schmid et al and upon further consideration of the previously applied rejection of Kochenour in view of Ouellette et al. Rejections based on the newly cited reference(s) follow.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 61, 63, 64, 66 and 67 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kochenour (US 4,090,668) in view of Ouellette et al (US 6,281,649).

In regard to Claims 61, 63, 64, 66 and 67, Kochenour teaches an apparatus for cleaning and deicing a vehicle window where the apparatus comprises a reservoir (30) that contains a washing fluid, a vessel (50 or 52) having an inlet (60) through which the washing fluid is received from the reservoir and an outlet (62) through which the fluid is discharged where at least one spray head (80) is in fluid communication with the outlet through which the fluid is sprayed onto at least one vehicle window (Column 4, lines 22-37) and at least one windshield wiper (12, 22) for wiping the window where the windshield wiper actuation system includes a motor (20; Column 3, lines 27-32) that actuates the windshield wiper (12, 22) and a controller (110; Column 4, line 67-Column 5, line 10) to control at least one of the spray heads (80) and the windshield wiper (12, 22) based on the torque of the motor (20; Column 3, lines 27-32; motor controls the wiper blade sweep motion).

The apparatus of Kochenour also teaches where the windshield wiper (12, 22) is operative to wipe the window between two limits of travel where the traveling sweeping motion of wiper blades controlled by the motor for back and forth motion in both a clockwise and counterclockwise direction and the controller is operative to change the

direction of at least one windshield wiper without reaching at least one of the two limits of travel by switching the speed at which the motor actuates the windshield wipers where the controller further is capable of synchronizing operation of at least one spray head (80) with the movement of at least one windshield wiper (12, 22; See Figure 2 where the spray heads are in the windshield wiper and cooperate with one another when the wiper is motioned in the sweeping clockwise and counterclockwise movements).

The apparatus of Kochenour further teaches where the reservoir (30) has a heating element (104) that is disposed in the vessel (50 or 52) for heating the fluid in the vessel (50 or 52).

However, Kochenour fails to teach where the controller is operative to control at least one of the spray heads and the at least one windshield wiper based on a measured value of a torque of the motor (motor of windshield wiper) received by the controller.

On the other hand, Ouellette et al teach having a controller that is operative to control at least one spray head and at least one windshield wiper based on a measured value of a torque of the motor (motor of windshield wiper) received by the controller (see column 4, line 23 thru column 6, line 58).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the present invention was made to provide the controller of Kochenour with the control system that operates on a measured value of torque as taught by Ouellette et al in order to provide a manner in which a wiper system can better control spraying as

determined by the controller to compensate for the speed of a car traveling at various velocities.

Claims 65 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kochenour (US 4,090,668) in view of Schmid et al (US 4,866,359).

In regard to Claim 65, Kochenour at taught and described above substantially teaches the present invention with the exception of the windshield wiper being placeable in a summer parking mode and a winter parking mode, where in the summer parking mode, the wiper is at least generally at one of the limits of travel, and wherein in the winter parking mode, the wiper is between the limits of travel.

On the other hand, Schmid et al teach where a windshield wiper is placeable in a summer parking mode and a winter parking mode, wherein in the summer parking mode, the wiper is at least generally at one of the limits of travel, and wherein in the winter parking mode, the wiper is between the limits of travel.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the present invention was made to have provide the windshield wiper of Kochenour with the summer and winter parking mode control operability of Schmid et al in order to provide for a manner in which a wiper is prevented from being blocked by snow or ice in the gap between the windshield and the wiper lower limit of travel.

Response to Arguments

Rejection under 35 USC § 103

Applicant's arguments with respect to claims 61 and 63-67 have been considered not to be persuasive. Upon further consideration, Examiner is rejecting Claims 61 and 63-67 with the previously applied interpretation of Kochenour in view of Ouellette as the combined device teaches the limitations of the Claims to include the windshield wiper, controller and movements of the wiper as well as the controller operating based on a measured torque value. Claim 65 has been rejected based on Kochenour in view of Schmid et al which teach having the summer and winter parking modes respectively.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Miller (US 4,866,357), Evans et al (US 5,274,316).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Trevor McGraw whose telephone number is (571) 272-7375. The examiner can normally be reached on Monday-Friday (2nd & 4th Friday Off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Len Tran can be reached on (571) 272-1184. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/T. E. M./
Examiner, Art Unit 3752

/Dinh Q Nguyen/
Primary Examiner, Art Unit 3752